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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/510,937	02/22/2000	Carey V. Campbell	MP/55G	2961

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EXAMINER

MIGGINS, MICHAEL C

ART UNIT PAPER NUMBER

1772

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/510,937

Applicant(s)

CAREY V. CAMPBELL

Examiner

Michael C. Miggins

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### **REJECTIONS WITHDRAWN**

1. All of the rejections either set forth or maintained in the final rejection of 4/27/06, page 2, paragraph 2 have been withdrawn. The notification of allowable subject matter maintained in the final rejection of 4/27/06, page 2, paragraph 2 are withdrawn.

### **REJECTIONS REPEATED**

2. There are no rejections repeated.

### **NEW REJECTIONS**

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-9 and 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over McWhorter (US 4106509) in view of Karwoski et al. (US 4718907).

McWhorter discloses a medical device comprising a tube (column 1, lines 5-15) having a node and fibril microstructure (since the tube is made from Gore-tex, see column 3, lines 10-22), the tube being non-porous and configured as an inflatable balloon, wherein the tube comprises porous expanded polytetrafluoroethylene (column 3, lines 10-22), wherein the balloon is an inelastic balloon and wherein the balloon

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comprises a portion of a balloon catheter (column 1, lines 5-15, column 3, lines 10-22 and column 2, lines 55-68) (applies to instant claims 1 and 11).

McWhorter does not disclose a non-porous coating over the porous PTFE to render the tube non-porous.

Karwoski discloses a non-porous coating (since the coating is non-porous to water and provides a high contact angle, see column 2, lines 53-65) on a porous fluoropolymer substrate (column 5, lines 15-20, column 5, lines 54-59, column 7, lines 35-45) in a stent or catheter (column 4, lines 35-46) for the purpose of providing improved biocompatibility (column 2, lines 15-48) (applies to instant claims 1 and 11).

Therefore it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided a non-porous coating over the porous PTFE to render the tube non-porous in the medical device of McWhorter in order to provide improved biocompatibility.

It would have been obvious to have provided a fluorinated adhesive in order provide improved bonding between the fluoro coating and fluoro substrate since like materials bond better to like materials.

McWhorter does not disclose multiple layers of porous expanded polytetrafluoroethylene. However, it has been found that duplication of the essential working parts of a product is obvious and within the level of one of ordinary skill in the art (see MPEP 2144). It would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided multiple layers of porous

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expanded polytetrafluoroethylene in the catheter of McWhorter in order to control porosity.

### **ANSWERS TO APPLICANT'S ARGUMENTS**

5. Applicant's arguments of 6/27/06 have been carefully considered but are moot in view of the new grounds for rejections set forth above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael C. Miggins  
Primary Examiner  
Art Unit 1772

A handwritten signature in black ink, appearing to read "Michael C. Miggins", with a long horizontal flourish extending to the right.

MCM  
July 6, 2006